

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

SL2 8/10/16
United States District Court
Southern District of Texas
FILED

AUG 10 2016

David J. Bradley, Clerk of Court

United States of America

v.

Nathaniel Trejo

Case No.

H16-1169M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of February 4, 2016 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 U.S.C. § 2252A (a)(2)(B)

Offense Description

The distribution, receipt and possession of child pornography.

18 U.S.C. § 2252A (a)(5)(B)

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Robert J. Guerra, FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

8/10/16



Judge's signature

City and state:

Houston, Texas

Dena Hanovice Palermo, USMJ

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert J. Guerra, being duly sworn, hereby depose and state the following:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since November 2005. I am charged with the duty of investigating violations of the laws of the United States, collecting evidence in cases in which the United States is or may be a party in interest and performing other duties imposed by law. During my assignment with the FBI, I have participated in the execution of search warrants for documents and other evidence, including computers and electronic media, in cases involving child pornography and the sexual exploitation of children. I have investigated many cases involving child pornography and the sexual exploitation of children. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal sexual exploitation of children laws in which computers were used as the means for receiving, transmitting and storing child pornography as defined in Title 18, United States Code, Section 2256.
2. This affidavit is submitted for the limited purpose of establishing probable cause in support of the attached Complaint and therefore contains only a summary of the relevant facts. I have not included each and every fact known by me concerning the individuals and events described herein. The information contained in this affidavit is based on my firsthand knowledge as well as information obtained through witness interviews conducted by me or other Law Enforcement Officers or Special Agents of the FBI and a review of various records.

3. An increasingly common method of file storage is known as “cloud storage.” In cloud storage, users upload their data to remote commercial servers. Each user is allocated a predetermined amount of storage and that storage is dedicated to a single user account. The storage space is typically accessed by entering a username or email address and a password.
4. DropBox is a file hosting service headquartered in San Francisco, California, that offers cloud storage, file synchronization, personal cloud and client software. DropBox allows users to create a special folder on their computers, which DropBox then synchronizes so that it appears to be the same folder (with the same contents) regardless of which device is used to view it. The content of said folder can be accessed by any Internet-connected device, such as a computer or smartphone.
5. On April 28, 2016, The National Center for Missing and Exploited Children (NCMEC) received a complaint via their CyberTipLine from DropBox. CyberTip Report 10007655 was reported to the NCMEC CyberTipLine by DropBox as a result of 5 videos and 1 image depicting child pornography being posted to a DropBox account created by a user using the email address theloverofkids@mail.com; Screen/User name John Doe. This DropBox account was registered on February 4, 2016, using the IP address 76.31.105.173.
6. DropBox confirmed that all files referenced in CyberTip Report 10007655 were personally viewed by DropBox, prior to the submission to NCMEC, in accordance with their standard course of procedures. DropBox also confirmed that all files associated with the CyberTip Report 10007655, were being made publically available, meaning the

files were being shared with whomever the creator of the account provided a link to access the DropBox folder. In CyberTip Report 10007655, DropBox stated that on February 4, 2016, at 03:44:02 UTC the account was created and the following files were uploaded to the DropBox account associated with the email address

theloverofkids@mail.com#, utilizing the Comcast Communications IP address

76.31.105.173:

- a. "f41.mpg"
- b. "Chinees_kutje.mp4"
- c. "sweetlilpees.wmv"
- d. "7yo-open.mp4"
- e. "-_sdpa_(2).mp4"
- f. "Photo 17-03-2015 7 17 28 pm.jpg"

7. I have reviewed all six of the files and determined that all of the files depicted child pornography as defined by Title 18 United States Code 2256. Below is a description of the six files that meet the federal definition of child pornography that were uploaded to the DropBox account associated with the email address theloverofkids@mail.com#, utilizing the Comcast Communications IP address 76.31.105.173:

- a. "f41.mpg"- This is a video file that is 5 minutes and 20 seconds in length, depicting two minor females, one who appears to be under the age of 14 and the other who appears to be under the age of 8. Both children can be seen being vaginally penetrated by an adult male's penis.
- b. "Chinees_kutje.mp4" - This is a video file that is 32 seconds in length, depicting a nude minor female, who appears to be under the age of 12, lying down on her back,

while engaged in a pose in which her genitals are exposed in a lewd and lascivious manner.

- c. "sweetlilpees.wmv" - This is a video file that is 16 seconds in length, depicting a nude minor female, who appears to be under the age of 10, lying down on her back urinating. The child is engaged in a pose where her genitals are exposed in a lewd and lascivious manner.
 - d. "7yo-open.mp4" - This is a video file that is 1 minute in length, depicting a nude minor female, who appears to be under the age of 10. The video begins with the child exposing her genitals in a lewd and lascivious manner to the camera and ends with the child being vaginally penetrated by an adult male's penis.
 - e. "-_sdpa_(2).mp4" - This is a video file that is 39 seconds in length, depicting a nude minor female, who appears to be under the age of 12 engaging in poses where her genitals are exposed in a lewd and lascivious manner.
 - f. "Photo 17-03-2015 7 17 28 pm.jpg" - This is an image file depicting a minor female, who appears to be under the age of 14, being orally penetrated by an adult male's penis.
8. On June 2, 2016, an administrative subpoena was served to Comcast Communications to provide information pertaining to the subscriber assigned the IP address 76.31.105.173 on February 4, 2016, at 03:44:02 UTC. On June 30, 2016, Comcast Communications responded with the following information:

Subscriber Name:	Nick Trejo
Service Address:	423 Kernohan Street Crosby, TX 77532
Telephone #:	832-527-2697
Type of Service:	High Speed Internet Service

Account ID: 8777702051203367
Start of Service: unknown
E-mail User IDs: NICKTREJO, txgirlygirl

9. A National Crime Information Center (NCIC) criminal history check was conducted for Nathaniel Trejo, date of birth 09/XX/88, social security number XXX-XX-7699. NCIC records indicated that Nathaniel Trejo was convicted on September 12, 2013, for Indecency with a Child Sexual Contact and Possession of Child Pornography. Nathaniel Trejo is a Registered Sex Offender in the State of Texas.
10. A check of the Texas DPS Sex Offender Registry website showed Nathaniel Trejo being a lifetime registered sex offender. Trejo's residential address was last verified on January 5, 2016 to be 423 Kernohan Street, Crosby, Texas 77532.
11. On August 10, 2016, FBI Houston executed a federal search warrant at Nathaniel Trejo's residence in Crosby, Texas. Upon the execution of the search warrant, Nathaniel Trejo was identified and subsequently interviewed by SA Robert J. Guerra and SA Ryan J. Shultz. After being advised of his *Miranda Rights*, Trejo agreed to make a statement. Trejo advised that he had created a DropBox account with the email theloverofkids@mail.com and had uploaded images and videos of child pornography to that DropBox account. Trejo stated there would be child pornography on his Apple iPhone located inside the residence.
12. Trejo explained that he also utilized the mobile application KiK to receive and distribute child pornography with users of that application. Trejo would provide other users of KiK his login and password for said DropBox account so that the other users could access the child pornography files stored on DropBox. Trejo stated he had received

child pornography as recently as two days ago via the KiK application. Trejo stated there would be child pornography within the DropBox application on his iPhone. Trejo stated he had been viewing and receiving child pornography since approximately two months after being released from jail for possession of child pornography in 2013.

13. Trejo acknowledged that possessing, distributing, and receiving child pornography was wrong and illegal, but he continued to take part in those activities via the KIK application. Trejo stated he simply had an addiction to pornography.
14. During the course of the search, your affiant observed the Apple iPhone located within the residence. A brief on-site preview of the cellular phone revealed the presence of at least 50 videos and over 300 images which meet the federal definition of child pornography. The victims portrayed in the aforementioned media were observed to range from infants to young teenagers. Below is a brief description of three of the images and videos that were observed by your affiant:

Media: Apple iPhone

Description: This is an image file which depicts a minor female, who appears to be under the age of 3, lying on her back, engaged in a pose where the child's genitals are exposed in a lewd and lascivious manner.

Media: Apple iPhone

Description: This is a video file which depicts a minor female, who appears to be under the age of 6, being digitally penetrated by an adult female's finger.

Media: Apple iPhone

Description: This is a video file which depicts a minor male, who appears to be under the age of 12, standing completely nude while an adult female performs oral sex on the child.

15. Trejo stated all the images and videos of child pornography found on his iPhone would be as a result of his doing, not his parents or anyone else. Trejo was the only user of the

iPhone and provided the interviewing agents with the password to access the device.

Trejo stated during the interview that he had attempted suicide on several occasions and had attempted suicide as recently as last month.

16. During the transport of Trejo, he continuously rammed his head into the window of the rear passenger side of the FBI vehicle in which he was being transported. After the window was rolled down, Trejo attempted to unbuckle himself and throw himself out the moving vehicle while on the freeway. Subsequently, a marked Harris County Sheriff patrol unit was called for assistance. Once removed from the FBI vehicle, Trejo attempted to run from authorities while handcuffed. Trejo was apprehended after a brief escape attempt and was placed in the back of the marked unit. Trejo was transported to the United States Federal Courthouse located at 515 Rusk Street, Houston, Texas.

CONCLUSION

17. Based on all information set forth above, your Affiant believes there is probable cause to believe that on or about February 4, 2016, Nathaniel Trejo, was in violation of Title 18 U.S.C. § 2252A (a)(2)(B) and 2252A (a)(5)(B)- the distribution, receipt and possession of child pornography.



Robert J. Guerra, SA, FBI

Subscribed and sworn before me this 10th day of August 2016.



Dena Hanovice Palermo
United States Magistrate Judge